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OUR FILE NO.

August 12, 1993

0573.025
081293.ccl

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D. C. 20554

RECEIVED

AUG 17 1993

RE: WGNE, Titusville, Florida
PETITION FOR RULEMAKING
to Amend Section 73.202(b)
Table of Allotments, FM Broadcast Stations

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Mr. Caton:

On behalf of Southern Starr Limited Partnership I transmit herewith an original and four copies of a Petition for Rulemaking to Upgrade station WGNE for filing with the Commission in the above captioned proceeding.

Should the Commission have any questions regarding this matter, kindly direct them to the attention of the undersigned, counsel to Southern Starr Limited Partnership. Additionally, I would be appreciative if a copy of any correspondence regarding this matter would be directed to my attention.

With the best of regards, I am

Sincerely,

Bradford D. Carey

No. of Copies rec'd
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG 17 1993
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
) **Amendment of Section 73.202(b)**) **RM - _____**
) **Table of Allotments**)
) **FM Broadcast Stations**) **MM Docket No:**
)
)
(Titusville, Florida)) _____

To: Chief Allocations Branch

PETITION FOR RULEMAKING

Southern Starr limited Partnership, the Licensee of FM Broadcast station WGNE, Titusville, Florida ("Starr"), by Counsel, pursuant to Section 1.401 *et seq.* of the Commission's Rules, hereby petitions the Commission to institute a rulemaking proceeding to amend the Table of Allotments for FM Broadcast stations, § 73.202(b) of the Commission's Rules and Regulations, 47 C.F.R. § 73.202(b), to substitute Channel 251 C1 for Channel 251 C2 at Titusville, Florida and to modify Starr's license for WGNE to specify operation on the higher class channel. In support of this request, the following is shown:

I. WGNE (FM) PRESENTLY OPERATES ON CHANNEL 251 C2

FM Station WGNE presently operates, pursuant to an F.C.C. issued license, on channel 251 C2 at Titusville, Florida with an effective radiated power ("ERP") of 50 kW and an antenna height above average terrain (HAAT) of 141 meters.

II. CHANNEL 251 C1 IS NOW AVAILABLE FOR SUBSTITUTION

AT TITUSVILLE, FLORIDA

Starr's consulting engineers have determined that Channel 251 C1 at Titusville is now available for the upgrade of WGNE in compliance with all minimum distance separation standards specified in the Commission's Rules. The "reference site" specified, from which all minimum distance and signal coverage requirements are met, is 28 35 00 North Latitude and 80 34 10 West Longitude. The supporting technical exhibit of Bromo Communications, Inc., including the affidavit of Clifton G. Moor, is attached hereto as Exhibit TE-1.

III. COMMISSION POLICIES AND THE COMMUNICATIONS ACT

FAVOR UPGRADE OF WGNE

A. SECTION 307(B) REQUIRES THAT TITUSVILLE BE ALLOTTED AN UPGRADED STATION.

The Communications Act of 1934, as Amended, requires that the Commission ensure the fair, efficient and equitable distribution of the various classes of radio stations to the various cities and states. Titusville, Florida has been allotted only one FM station, WGNE. As a class C2 facility, the coverage is limited significantly compared to the coverage of full class C stations, several of which are allotted to many cities. However, were WGNE upgraded to a class C1 facility, the station's service area would be significantly expanded. While still only a singular station, and not a full class C facility, Titusville's only commercial

FM voice would be a much more powerful voice than it is now.

Many workers in the Titusville area live in surrounding areas. As a Class C1 station, WGNE would be better able to serve those who work in the Titusville area, but commute from significant distances, and those who live in Titusville but commute to other areas to work.

B. F.C.C. POLICIES FAVOR UPGRADE OF WGNE

Upgrades of existing FM stations are in the public interest. 50 *Fed. Reg* 45439 (October 31, 1985). And, as illustrated by the Commission's actions in Mass Media Dockets numbered 80-90, 85-313 and 86-144, the Commission's policy is to encourage its broadcast licensees to upgrade to provide enhanced service to their audiences.

Further illustration that the Commission's policies strongly favor upgrades is the recent action by the Commission in Mass Media Docket No. 92-159, *Permitting FM Channel and Class Modifications by Application*, 58 *Fed. Reg.* 38534 (July 19, 1993)¹

¹Starr commenced the studies for the upgrade sought before the Commission's *Report and Order* in Docket 92-159 was issued. This Petition is being filed before the expiration of the thirty day period, commencing with the effective date, referred to in the *Report and Order*. Therefore, the conventional "two step" proceeding is being followed.

IV. IF THE REQUESTED UPGRADE IS GRANTED, STARR WILL FILE AN APPLICATION FOR A CONSTRUCTION PERMIT AND BUILD AND OPERATE A STATION ON THE UPGRADED CHANNEL.

If the Commission grants this Petition and commences a rulemaking proceeding, Starr will timely file comments in support thereof. If the Commission determines to amend its table of allotments for FM broadcast stations, to upgrade the allotment on which WGNE operates and modify Starr's license for WGNE to specify operation on the upgraded channel, Starr will timely file an application on F.C.C. form 301 to specify upgraded facilities. If granted a permit, Starr will expeditiously construct, then operate, a station on the upgraded allotment.

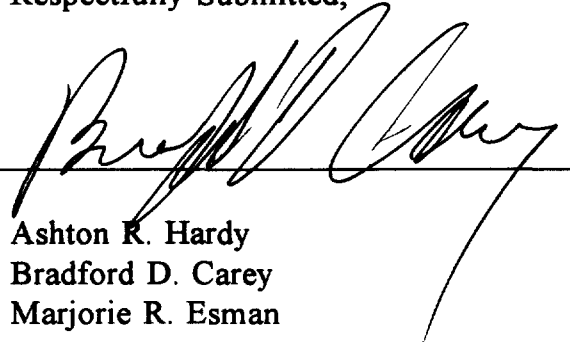
V. CONCLUSION: A PROCEEDING SHOULD BE COMMENCED AND AN UPGRADE GRANTED.

Starr has demonstrated that Channel 251 C1 can be substituted for Channel 252 C2 at Titusville. From the specified "reference site," all spacing requirements of the Commission are met. The Commission's policy is that the public interest is furthered when existing stations are permitted to upgrade their facilities. The Communications Act of 1934, as Amended, requires that the Commission fairly and equitably allot broadcast stations among the various communities. WGNE is the only commercial FM allotment to Titusville. Other communities have less population and smaller areas to serve, but more plentiful, and more powerful, stations. Titusville, with its extensive commuter travel, deserves a wide-area

station. The spectrum is available. This Petition should be **GRANTED** and the Table of Allotments, §73.202(b) **AMENDED** to substitute channel 251 C1 for channel 252 C2 at Titusville.

Respectfully Submitted,

By: _____


Ashton R. Hardy
Bradford D. Carey
Marjorie R. Esman

Hardy & Carey
111 Veterans Blvd., Suite 255
Metairie, LA 70005
(504) 830-4646

August 12, 1993

REQUESTED RULE MAKING
SOUTHERN STARR LIMITED PARTNERSHIP
REQUESTS CHANNEL 251C1
TITUSVILLE, FLORIDA
July 1993

Technical Exhibit
TE-1

Bromo Communications, Inc.
P.O. Box M - 1331 Ocean Boulevard, Suite 201
St. Simons Island, Georgia 31522
(912) 638-5608

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REQUESTED RULE MAKING
SOUTHERN STARR LIMITED PARTNERSHIP
REQUESTS CHANNEL 251C1
TITUSVILLE, FLORIDA
July 1993

This Request for Rule Making is being compiled on behalf of Southern Starr Limited Partnership ("Southern Starr"), licensee of WGNE (FM), Titusville, Florida. Southern Starr wishes to pursue an upgrade from the present licensed Channel 251C2 to the more powerful Channel 251C1.

ALLOCATION

The proposed Southern Starr reference coordinates of North Latitude 28° 35' 00" and West Longitude 80° 34' 10" meet or exceed all spacing requirements of §73.207. From this location, the 70 dBu city grade contour will serve all of Titusville, Florida, the city of license. The typical C1 70 dBu (city grade) contour extends 50.03 kilometers. As can be seen from the Allocation Map, all of the city of Titusville is less than 30 kilometers from the reference site. Exhibit #2 is the allocation study demonstrating allocation compliance.

PUBLIC INTEREST CONSIDERATIONS

Southern Starr wishes to reiterate that WGNE is the only Commercial FM station allotted to Titusville, Florida.

An increase in class from Class C2 to Class C1 will greatly increase the number of persons and the area served by WGNE.

Present C2

648,058 Persons 8,294.5 Square Kilometers

Proposed C1

792,714 Persons 16,424.5 Square Kilometers

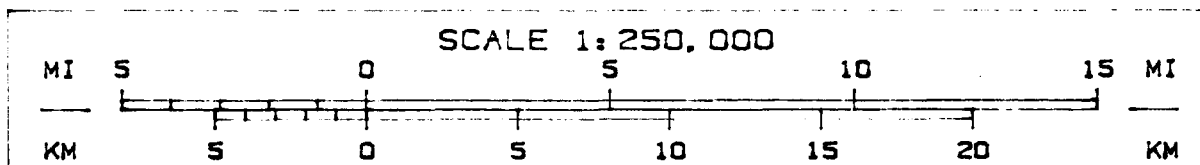
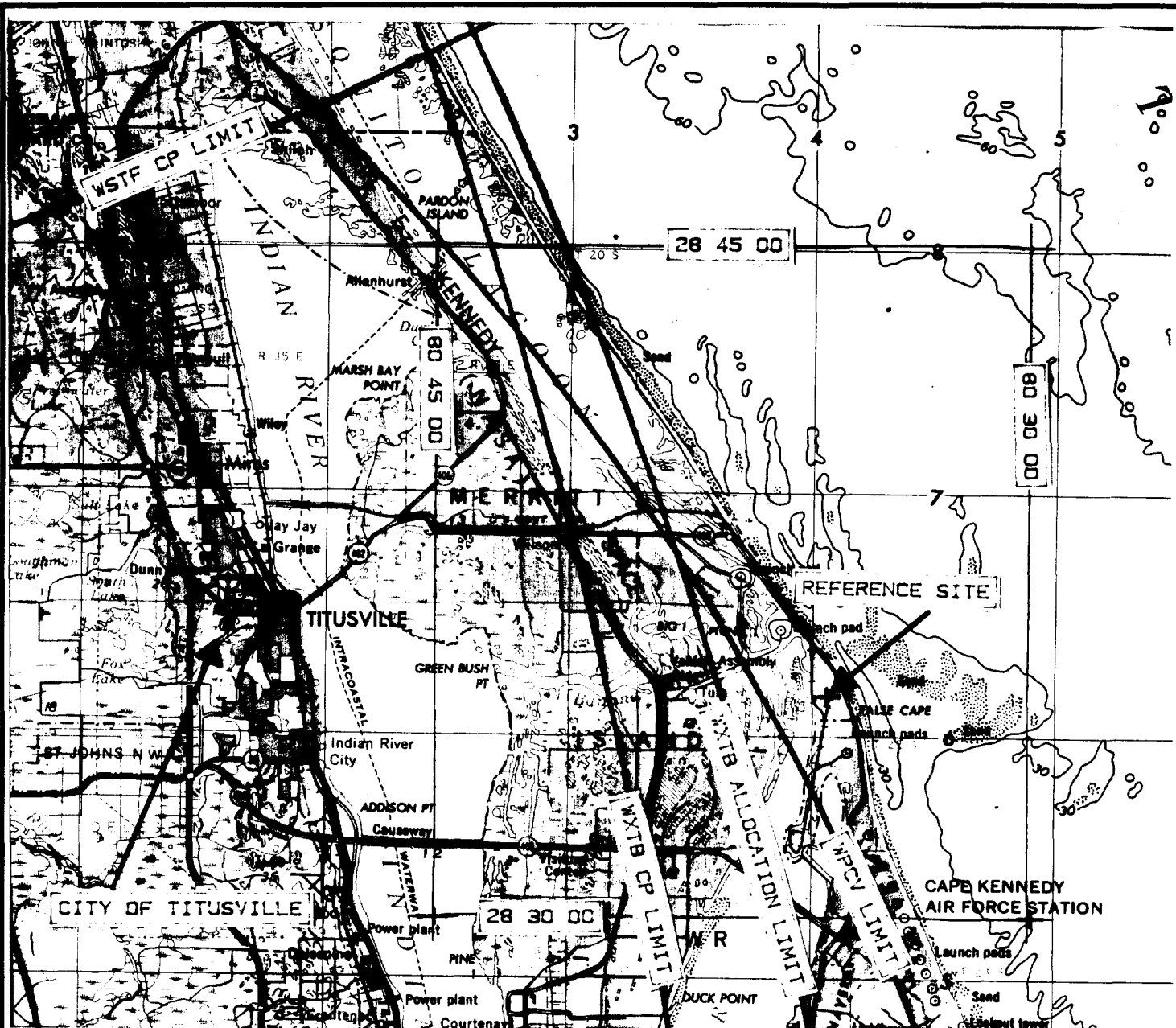
The above population figures are taken from the 1990 Census and the PL-97-231 Files.

CONCLUSION

Because of the greater service to the public and the compliance with the spacing requirements of §73.207 of the Commission's rules, it is thought that Southern Starr, licensee of WGNE, Titusville, Florida, can be ordered to Class C1 and the reference site proposed herein.

All information contained in this Request for Rule Making is true and accurate to the best of our belief and knowledge. Should any questions arise during its review, we would be happy to discuss the matter by phone at (912) 638-5608. All the data used in the preparation of this report

was valid as of this writing. We assume no responsibility for database errors or omissions which are beyond our control and which may impact the potentials outlined herein.



ALLOCATION MAP

REFERENCE SITE:
28 35 00 NORTH LATITUDE
80 34 10 WEST LONGITUDE

MAP IS ORLANDO, FLORIDA 1:250,000 SCALE

EXHIBIT #1

SOUTHERN STARR LTD PTNRSHIP
WGNE FM RADIO STATION
REQUESTS 251 C1
TITUSVILLE, FLORIDA

JULY 1993

BROMO
COMMUNICATIONS

BROADCAST
TECHNICAL CONSULTANTS

St Simons Island, Georgia

Washington, D.C.

BROMO COMMUNICATIONS INC.
St. Simons Island GA

WGNE RADIO STATION
SEARCHING AT HYPOTHETICAL SITE

REFERENCE 28 35 00 N 80 34 10 W	CLASS C1 Current rules spacings CHANNEL 251 - 98.1 MHz	DISPLAY DATES DATA 06-30-93 SEARCH 07-26-19
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CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WGNE	251C2	Titusville	FL	315.8	41.00	224.0	-183.00 *
LI CN	28 50 54	80 51 44	50.000 kW	141M	25.5	139.2	
Southern Starr Limited Partne					BLH890123KK		
>FROM CHANNEL 252							
WPCV	248C	Winter Haven	FL	242.2	108.73	105.0	3.73
LI CN	28 07 35	81 33 03	100.000 kW	310M	67.6	65.3	
Hall Communications, Inc.					BLH890908KA		
ALOPEN	250C	Clearwater	FL	253.8	214.66	209.0	5.66
AL N	28 02 34	82 40 16	0.000 kW	0M	133.4	129.9	
88-501							
WXTB.A	250C	Clearwater	FL	258.4	219.29	209.0	10.29
AP ZCN	28 11 04	82 45 39	100.000 kW	411M	136.3	129.9	
Great American Television & R					BPH920603IG		
>From Channel 250C1 Per D89-501-Amended 920720							
WRMF	250C	Palm Beach	FL	171.7	224.66	209.0	15.66
LI CN	26 34 37	80 14 32	100.000 kW	411M	139.6	129.9	
Fairbanks Communications, Inc					BLH850806KQ		
WSTF.C	250C2	St. Augustine	FL	332.6	189.86	158.0	31.86
CPMZCN	30 06 14	81 28 11	50.000 kW	147M	118.0	98.2	
Todd Communications, Inc.					BMPH921223IB		
WXTB	250C1	Clearwater	FL	253.6	213.33	177.0	36.33
LI CN	28 02 21	82 39 21	100.000 kW	183M	132.6	110.0	
Great American Television & R					BLH880413KA		
>*To Channel 250C per D89-501							

ALLOCATION STUDY

REFERENCE SITE:
28 35 00 NORTH LATITUDE
80 35 10 WEST LONGITUDE

EXHIBIT #2

SOUTHERN STARR LTD PTNRSH
WGNE FM RADIO STATION
REQUESTS 251 C1
TITUSVILLE, FLORIDA

JULY 1993

BROMO
COMMUNICATIONS
BROADCAST
TECHNICAL CONSULTANTS
St Simons Island, Georgia
Washington, D.C.

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT


State of Georgia)
St. Simons Island) ss:
County of Glynn)

CLIFTON G. MOOR being duly sworn, deposes and says that he is an officer of Bromo Communications, Inc. Bromo has been engaged by Southern Starr Limited Partnership, licensee of WGNE Radio Station, to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in broadcast engineering since 1966.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 26th day of July, 1993.



CLIFTON G. MOOR
Affiant

Sworn to and subscribed before
me this the 26th day of July, 1993.



Notary Public, State of Georgia
My Commission Expires: September 8, 1995